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**FISCAL IMPACT STATEMENT**

**LS 6146**

**BILL NUMBER:** SB 15

**NOTE PREPARED:** Mar 25, 2005

**BILL AMENDED:** Mar 24, 2005

**SUBJECT:** Absentee Ballots.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:** Rep. Richardson

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill provides that an absentee ballot application may not be given to a voter if certain information has been filled out before the application is given to the voter. The bill permits other information to be filled out before given to the voter. The bill requires an absentee ballot application to be filed within specific times. The bill requires an individual who assist a voter complete certain information on an absentee ballot application or who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. The bill requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. The bill removes a provision concerning an absentee ballot application submitted by: (1) a confined voter; or (2) a voter caring for a confined person; in a county having a consolidated city.

The bill establishes noon of the day before election day as the deadline for a confined voter or a voter caring for a confined person to submit an absentee ballot application by fax. The bill permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. The bill provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. The bill provides that a voter who is an address confidentiality program participant is entitled to cast an absentee ballot.

The bill requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. The bill allows: (1) an authorized agent or employee of a county election board; or (2) an employee of a bonded courier company; to handle or deliver a voted or unvoted absentee ballot. The bill allows a person who receives a voted absentee ballot to deliver the ballot to the county election board: (1) in person, (2) by United States mail, or (3) by a bonded courier company. The bill makes other changes relating to absentee

ballots.

The bill removes references to the delivery of ballots printed by the Election Division to conform with 2004 legislation providing that the Election Division will no longer print ballots. The bill establishes new criminal offenses relating to fraud and misrepresentation in elections. The bill excludes from the definition of "electioneering" a person's communications to: (1) the person's spouse; (2) an incapacitated person for whom the person has been appointed guardian; and (3) a member of the person's household.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Election Forms-* The Election Commission would be required to prescribe the absentee voter's bill of rights, absentee ballot application form, and affidavits for mis-entered ballot applications to comply with the bill. Absentee ballot applications would have to comply with the provisions of the bill no later than September 1, 2005. Additionally, the Commission would be required to prescribe an official affidavit form for county election board use for individuals filing absentee ballots on behalf of other voters.

The Election Division had printing costs of about \$260 for forms and \$2,200 for other items in FY 2005. The Commission's resources should be sufficient to develop the forms necessary to comply with the bill.

*Background:* The Election Commission reverted \$63,947 back to the state General Fund at the end of FY 2004. The Election Division was appropriated \$794,571 in FY 2004 and \$725,571 in FY 2005.

*State Recount Commission-* Under the bill, the State Recount Commission would be required to recount ballots cast by any voting method and would be given the option to extend the deadline for completion of a recount, if a good reason is apparent.

*Background:* Current law allows an appropriation from the state General Fund to the state Recount Fund of an amount sufficient for the State Recount Commission's use in the payment of expenses. The Recount Commission is comprised of three members: the Secretary of State, and one designee from each major political party.

Under current law, petitioners to the state Recount Commission must place a cash deposit for the payment of costs of a recount chargeable to the petitioner. The minimum cash deposit is \$100, with certain variations specified under law. All cash deposited by petitioners is placed in the state Recount Fund.

The state Recount Fund had a budgetary fund balance of \$1,260 at the end of FY 2004.

*Criminal Penalties-* The bill introduces several new criminal penalties including Class C and D felony and Class A misdemeanor provisions. Additionally, the bill upgrades several existing misdemeanor offenses to a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony

offenders is approximately ten months.

**Explanation of State Revenues:** *Criminal Penalties*- If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Absentee Ballots*- The bill would give local election officials additional responsibilities with regard to assisting persons with disabilities to fill out absentee ballot applications. The county election board would be able to deny applications for absentee ballots if applications were not filled out in compliance with the instructions provided in the bill. Under the bill, election officials would be able to file an affidavit that attested to improper procedures for filing an application for an absentee ballot. The county election board would conduct a hearing to approve or deny affidavits.

Under the bill, county election boards would be required to provide a copy of the “Absentee Voter’s Bill of Rights” in an absentee ballot mailed to a voter. This provision would increase the printing costs to the county election board in order to provide copies of the “Absentee Voter’s Bill of Rights.”

*Voter Affidavits*- Under current law, the inspector and a judge take a sealed bag of affidavits to the county election board after an election. Under the bill, county election boards would be charged with the following additional administrative responsibilities upon receipt of an affidavit bag: (1) remove affidavits from the bag, (2) mail a copy of each affidavit to the Secretary of State, (3) replace the affidavits within the bag, (4) reseal the bag and include endorsement of each county election board member.

*Criminal Penalties*- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Criminal Penalties*- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Election Commission, Election Division, State Recount Commission, Department of Correction.

**Local Agencies Affected:** County election Boards, trial courts, local law enforcement agencies.

**Information Sources:** Auditor of State, Budget Revenue Trial Balance 6/30/04; State Budget Agency: FY2004

*General and Rainy Day Fund Summaries*; State of Indiana: *List of Appropriations July 1, 2003 to June 30, 2005*; Indiana Sheriffs Association; Department of Correction.

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